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THIRD COMMITTEE
Agenda item 97 (b)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING
ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Note verbale dated 24 November 1992 from the Permanent
Representative of Sri Lanka to the United Nations
addressed to the Secretary-General

The Permanent Representative of the Democratic Socialist Republic of Sri Lanka to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to forward herewith the Final Document of the Ministerial Meeting of the South Asian Association for Regional Cooperation (SAARC) Member States concerning Children in South Asia, held from 16 to 18 September 1992.

The Permanent Mission shall be grateful if the attached document is circulated for the information of delegations to the Third Committee at the forty-seventh session of the General Assembly.

Annex

COLOMBO RESOLUTION ON CHILDREN

PREAMBLE

1. Pursuant to the decision of the Sixth SAARC Summit, we the Ministers of SAARC member States and other representatives of government and the people, assembled in Colombo from 16 to 18 September 1992 on behalf of the 410 million children of South Asia.

2. Our meeting in Colombo follows the first SAARC Conference on South Asian Children in 1986 in New Delhi and the subsequent SAARC summits. Consequent upon these consultations within the SAARC framework there has been considerable regional cooperation in the area of child development and some improvement in the conditions of children. The United Nations Convention on the Rights of the Child, the World Summit for Children of 1990 and the respective national plans of action constitute our frame of reference for regional cooperation on a range of policy, legal, technical and operational issues.

3. We hereby reaffirm our commitment to the objectives and goals envisaged in our national plans of action, drawn up within the overall framework of the World Declaration on the Survival, Protection and Development of Children. We pledge to cooperate with each other in the region for the survival, development and protection of the South Asian child. We consider this to be an integral part of, and a first charge on our respective Governments' efforts at improving the lives of the people of the region.

THE CHALLENGE

4. A quarter of the world's children live in South Asia. Every day, many of the children of our region are exposed to the scourge of poverty and economic deprivation. Every day, many of them still needlessly die or suffer from diseases caused by lack of clean drinking water or inadequate sanitation. Of the 35 million children born each year, over 5 million die before the age of five. The majority of the survivors, particularly girls, do not develop to a fraction of their potential. About a quarter of maternal deaths in the world occur in South Asia.

5. The unacceptable health, nutrition, education and social conditions for a large proportion of children and their exposure to abuse, violence and environmental hazards, and assumption of adult responsibilities, like motherhood at a tender age, child labour and child trafficking, are some of the most urgent challenges in the region. Child trafficking, particularly, urgently calls for both bilateral as well as regional cooperation. Children in difficult circumstances, such as those disabled, orphaned or abandoned, have special needs which have to be met. These are challenges that South Asia's political leaders must face.

THE OPPORTUNITY

6. In the traditional sociocultural environment of South Asia, the value placed on children is a common uniting factor among the nations of the region. We have today the means and the knowledge to greatly diminish the suffering of children, to promote their full development and to make them aware of their rights. The national plan of action which has been prepared by each Government provides the means for removing obstacles to the improvement of the condition of our children.

7. There is a wealth of experience in every country of the region in child development and related spheres. We have experience of success in many parts of the region. Government and non-governmental organizations have already demonstrated results despite financial constraints and other impediments.

8. The goals for children can be achieved in quality and in time if, and only if, the institutional arrangements, organizational requirements and resource commitments are more specifically identified and better assured, in a joint endeavour by all segments of society within each country, and between the countries of South Asia. In a development perspective, the 410 million children constitute South Asia.

TASKS AHEAD

9. We renew our commitment to achieving the seven major goals and the cluster of essential supportive goals for South Asia as contained in our respective national plans of action. In doing so, we emphasize the close interlinkages among them, and between them and social concerns like protection of the natural life-support system, economic opportunities, gender equality and poverty reduction. The greater, therefore, is the need to approach the goals at two levels:

(a) The tasks should be defined in manageable terms to be achieved in a sequential build-up of inter-goal momentum, according to country-specific and community-specific need and urgency;

(b) Concurrently, intercountry cooperation should enhance the feasibility of achieving goals which emerge as priorities.

10. We recognize that goals which were considered difficult have proved attainable by concerted action by the Government and the community. The experience gained in providing safe water and in universal immunization gives us the confidence that the goals, however formidable they appear, are amenable to phased action.

11. We urge that the national plans of action be reinforced in a regional perspective by taking into consideration the following set of illustrative goals in order to catalyse and accelerate progress towards the achievement of the seven major as well as the supportive goals. Some of these goals are:

/...

(a) Basic education:

- Access to, and enrolment in primary education for at least 80 per cent of boys and 75 per cent of girls, and completion of primary education by at least 50 per cent of girls as well as boys by 1995;
- Reduction of adult and adolescent illiteracy from the 1990 levels by 25 per cent by 1995;

(b) Diarrhoea control: universal use of oral rehydration therapy for home-based treatment of diarrhoea and universal access to oral rehydration salts by 1996;

(c) Iodine deficiency disorders: universal access to iodized salt by 1995;

(d) Reducing gender disparity: progressive reduction of gender disparity in all the goal-related indicators;

(e) Family size:

- Raising the minimum female age of marriage to at least 18 years;
- Access to family planning services in order to increase contraceptive prevalence levels by 50 per cent from the current rate by the year 2000;

(f) Child labour: progressive and accelerated elimination of child labour;

(g) Drinking water: access to safe drinking water to not less than three fourths of both rural and urban population by 1996 and universal access by 2000;

(h) Guinea worm disease: eradication by 1995;

(i) Immunization: reducing vaccine-preventable disease, and elimination of neonatal tetanus by 1995 and eradication of poliomyelitis by 2000;

(j) Maternal mortality: reduction of the maternal mortality ratio by half of the 1990 level;

(k) Nutrition: between 1990 and the year 2000, reduction of severe and moderate malnutrition among under-five children by half;

(l) Sanitation: double current levels of access to sanitary means of excreta disposal by 1996.

STRATEGIES

12. Strategies for achieving the goals for children should be integral to the total development strategy. This would include devolution of power to local government bodies, increasing the proportion of resources allocated to human development, reduction of poverty and organizing and empowering communities to meet basic needs. The cluster of goals for children including operational strategies should fit into this overall approach.

13. Human development, of which the goals for children are central, requires, in the South Asian context, a development strategy which would provide an alternative to the conventional pathway to economic growth. Current policy shifts towards the free market economy and structural adjustments require expansion of social safety programmes for children and women. The macroeconomic strategy needs to be supplemented with a simultaneous, parallel, pro-poor plan and strategy of community organization.

14. The political system should provide space for community-led local planning. The central principle of community-Government partnership in a common cause has to be deliberately promoted. Towards this aim two steps are essential:

(a) Communities, especially of the poor and involving the effective participation of women, have to be assisted in mobilizing, empowering and activating themselves as viable groups in responding to the needs of children;

(b) A system of effective local self-government has to be in place in order to take charge of both responsibilities and resources for achieving the community's goals for children. Powers required for this purpose must devolve to the local level.

15. Advocacy programmes have to be developed through media and other resources, so that families, communities, professionals and non-governmental organizations can be motivated towards the goals for the survival, development and protection of children.

16. To achieve maximum effectiveness there should be special focus on difficult and disadvantaged areas where services for children should be directed to the most needy.

17. In order to improve programme implementation optimal use of existing resources - financial, technical and managerial - should be ensured so as to reduce duplication, overlap and wastage.

18. The member States should formulate an annual action plan on major goals and supporting goals, disaggregated by compact administrative units. They should share experiences in addressing common problems, finding solutions and developing methods of effective implementation. We urge each country to annually review and update the annual action plan as a dynamic tool of country-wide action.

19. National information systems should be strengthened urgently. In this context we emphasize the need for effective compulsory registration of birth, marriage and death in all SAARC member States.

20. We urge that a nutrition surveillance system be established and programmes and strategies for vastly improving the nutrition status be implemented.

21. Member States should recognize the primary importance of the family and the household in the provision of services to children.

22. The intersecting needs of women and children and the contribution of women to the survival of the family should be recognized. Member States should therefore develop programmes for improving the situation of the girl child and the status of women in their countries while moving towards elimination of all forms of discrimination against women by empowering them.

23. We urge a holistic approach, through converging services, taking full advantage of the interlinkages between the goals.

RESOURCES

24. It is imperative that current levels of budgetary allocations for the social sector be enhanced. Norms could be evolved for determining the proportion of social sector investment in overall development outlay.

25. The first claim on resources should be the essential needs of children. Investment in children should be a non-negotiable political commitment.

26. The unproductive and wasteful drain of scarce resources on armaments and conflicts eats into national budgets and worsens the condition of children; it must therefore be avoided.

27. External resources, financial and technical, should be mobilized wherever appropriate for achieving the goals for children under the national plans of action.

28. The private sector should be encouraged to support community initiatives in the provision of facilities for children, as a part of its social responsibility.

FOLLOW-UP

29. This resolution draws upon the reports of the working groups on the seven themes. The recommendations of these reports may be taken up for implementation by member States, wherever appropriate:

- Child survival and safe motherhood (including small family);

- Mother and child nutrition;
- Basic education;
- Safe water, sanitation and the environment;
- The rights of the child;
- Socio-political strategy to achieve the goals;
- Poverty reduction and economic base for the family.

30. We express our appreciation to His Excellency Ranasinghe Premadasa, President of Sri Lanka, for his inspiring address and for providing guidance on measures to be taken for the survival, protection and development of children and mothers of the region. We also welcome the statement of Mr. James P. Grant, Executive Director of the United Nations Children's Fund (UNICEF) and the support extended by UNICEF in making this conference possible. We also express our gratitude for the warm and gracious hospitality extended by the Government and people of Sri Lanka.

31. This resolution is submitted for endorsement by the Seventh SAARC Summit in Dhaka in December 1992.

32. We call upon the member States - their Governments, political representatives, non-governmental organizations, communities and professionals to join hands in a movement for and with the children to enhance the physical, mental and moral quality of their lives.



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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS,
INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING
THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS

Letter dated 24 November 1992 from the Permanent
Representative of Spain to the United Nations
addressed to the Secretary-General

During the Second Ibero-American Summit, held in Madrid on 23-24 July 1992, the participating Heads of State and Government witnessed the signing of the Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, 1/ set up pursuant to the initiative presented at the First Summit, held at Guadalajara, Mexico, on 18-19 July 1991, 2/ by the President of the Republic of Bolivia, Mr. Jaime Paz Zamora.

The participating Heads of State and Government pledged to take the necessary steps to ensure the speedy implementation of the Agreement and the follow-up of development projects envisaged by the Fund, on the understanding that that was the best way for the countries of the Ibero-American community to participate in the celebration in 1993 of the International Year for the World's Indigenous People proclaimed by the General Assembly of the United Nations. 3/

The Agreement establishing the Fund was signed on 24 July 1992 by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Portugal, Spain and Uruguay. Peru signed it on 1 October.

On 16 September, in accordance with the provisions of article 14 of the Agreement, the representatives of Spain and Bolivia deposited the text with the Secretariat of the United Nations.

I have the honour to transmit herewith the text of the Agreement establishing the Fund, with the request that it be distributed as a document of the General Assembly under item 97 (b) of the agenda of the forty-seventh session.

(Signed) Juan A. YAÑEZ-BARNUEVO

Notes

- 1/ A/47/356-S/24367, para. 25.
- 2/ See A/46/317-S/22823, annex.
- 3/ Resolution 46/128.

Annex

AGREEMENT ESTABLISHING THE FUND FOR THE DEVELOPMENT OF THE
INDIGENOUS PEOPLES OF LATIN AMERICA AND THE CARIBBEAN*

The High Contracting Parties,

Meeting in the city of Madrid, Spain, on the occasion of the Second Ibero-American Summit, held on 23-24 July 1992,

Recalling the terms of the Universal Declaration of Human Rights, a/ the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, b/

Considering the international norms set forth in the Indigenous and Tribal Peoples Convention of the International Labour Organisation, adopted by the International Labour Conference in 1989,

Hereby adopt, in the presence of representatives of indigenous peoples of the region, the following Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean.

Article 1

Purpose and functions

1.1 Purpose. The purpose of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, hereinafter referred to as the "Indigenous Fund", is to establish a mechanism for supporting the processes of self-development of indigenous peoples, communities and organizations of Latin America and the Caribbean, hereinafter referred to as "indigenous peoples".

The term "indigenous peoples" shall mean indigenous peoples descended from populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. In addition, self-identification as indigenous shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Agreement apply.

The use of the term "peoples" in this Agreement shall not be construed as having any implications as regards the rights which may attach to the term under international law.

* Translation by the United Nations Secretariat.

1.2 Functions. In order to achieve the purpose set forth in paragraph 1.1 of this article, the Indigenous Fund shall have the following basic functions:

(a) To provide a forum for dialogue to reach agreement on the formulation of development policies, technical assistance operations and programmes and projects of interest to indigenous peoples, with the participation of Governments of States of the region, Governments of other States, agencies providing resources and indigenous peoples themselves;

(b) To channel financial and technical resources to priority projects and programmes agreed upon with indigenous peoples, making sure that they help create conditions for the self-development of those peoples;

(c) To provide training resources and technical assistance to support institution-building, management capacity, human resources training, information resources and research for indigenous peoples and their organizations.

Article 2

Members and resources

2.1 Members. The members of the Indigenous Fund shall be those States which deposit the instrument of ratification with the Secretariat of the United Nations, in accordance with their domestic constitutional requirements and in conformity with paragraph 14.1 of article 14 of this Agreement.

2.2 Resources. The resources of the Indigenous Fund shall consist of contributions by member States, contributions by other States, public or private multilateral, bilateral or national agencies and institutional donors and net income generated by the activities and investments of the Indigenous Fund.

2.3 Instruments of contribution. The instruments of contribution shall be protocols signed by each member State and establishing their respective commitments to contribute resources to the Indigenous Fund to form the capital of that Fund, in accordance with paragraph 2.4 below. Other contributions shall be governed by the provisions of article 5 of this Agreement.

2.4 Nature of contributions. Contributions to the Indigenous Fund may be made in foreign currency, local currency, technical assistance or in kind, in accordance with the rules and regulations laid down by the General Meeting. Contributions in local currency shall be subject to maintenance of their value and exchange rate.

Article 3

Organizational structure

3.1 Organs of the Indigenous Fund. The organs of the Indigenous Fund shall be the General Meeting and the Board of Directors.

3.2 General Meeting

(a) Composition. The General Meeting shall be composed of:

- (i) One Government-accredited delegate for each member State; and
- (ii) One indigenous peoples' delegate for each State of the region that is a member of the Indigenous Fund, accredited by his Government following the relevant consultations with the indigenous organizations of that State.

(b) Decisions

- (i) Decisions shall be taken by unanimous affirmative vote of delegates of States of the region that are members of the Indigenous Fund, together with a majority of affirmative votes of representatives of other member States and a majority of affirmative votes of delegates of indigenous peoples;
- (ii) On matters affecting indigenous peoples of one or more countries, the affirmative vote of their delegates shall also be required.

(c) Rules of procedure. The General Meeting shall lay down its rules of procedure and such other rules and regulations as it deems necessary for the functioning of the Indigenous Fund.

(d) Functions. The General Meeting shall have the following functions, among others:

- (i) To formulate the overall policy of the Indigenous Fund and to adopt such measures as are necessary for the fulfilment of its objective;
- (ii) To approve the basic criteria for the preparation of plans, projects and programmes to be supported by the Indigenous Fund;
- (iii) To approve membership status, in accordance with the stipulations of this Agreement and such rules and regulations as may be established by the General Meeting;

- (iv) To approve the annual programme and budget and the periodic financial statements of the Indigenous Fund;
 - (v) To elect members of the Board of Directors referred to in paragraph 3.3 and to delegate to the Board such powers as may be necessary for the functioning of the Indigenous Fund;
 - (vi) To approve the technical and administrative structure of the Indigenous Fund and appoint the Technical Secretary;
 - (vii) To approve special agreements enabling non-member States, as well as public and private organizations, to cooperate with or participate in the Indigenous Fund;
 - (viii) To approve any amendments to the Agreement establishing the Fund and submit them to the member States for ratification, where appropriate;
 - (ix) To terminate the operations of the Indigenous Fund and appoint liquidators.
- (e) Meetings. The General Meeting shall hold a regular meeting once a year and shall hold special meetings, whenever necessary, on its own initiative or at the request of the Board of Directors, in accordance with the procedures established in the rules of procedure of the General Meeting.

3.3 Board of Directors

(a) Composition. The Board of Directors shall be composed of nine members elected by the General Meeting and representing in equal proportions the Governments of States of the region that are members of the Indigenous Fund, the indigenous peoples of those same member States and the Governments of other member States. Members of the Board of Directors shall serve for a two-year term, preferably following a system of rotation.

(b) Decisions

- (i) Decisions shall be taken by unanimous affirmative vote of delegates of States of the region that are members of the Indigenous Fund, together with a majority of affirmative votes of representatives of other member States and a majority of affirmative votes of delegates of indigenous peoples;
- (ii) In order to be valid, decisions of the Board of Directors which concern a specific country must also be approved, through the most appropriate mechanisms, by the Government of the State concerned and by the recipient indigenous people.

(c) Functions. In accordance with the rules, regulations and guidelines approved by the General Meeting, the Board of Directors shall have the following functions:

- (i) To propose to the General Meeting supplementary rules and regulations for fulfilling the objectives of the Indigenous Fund, including the rules of procedure of the Board;
- (ii) To appoint a Chairman from among its members, using the voting procedures established in paragraph 3.3 (b) above;
- (iii) To take the measures necessary for the implementation of this Agreement and of the decisions of the General Meeting;
- (iv) To evaluate the technical and administrative needs of the Indigenous Fund and propose the corresponding measures to the General Meeting;
- (v) To administer the resources of the Indigenous Fund and authorize the allocation of credits;
- (vi) To submit to the General Meeting for consideration the proposed annual programme and budget and the periodic financial statements of the Indigenous Fund;
- (vii) To consider and approve programmes and projects eligible for support from the Indigenous Fund, in accordance with its objectives, rules and regulations;
- (viii) To arrange for and provide technical assistance and the support required for the preparation of projects and programmes;
- (ix) To promote and establish mechanisms for consultation and agreement among member States of the Indigenous Fund, cooperating entities and recipients;
- (x) To propose to the General Meeting the appointment of the Technical Secretary of the Indigenous Fund;
- (xi) To suspend the operations of the Indigenous Fund temporarily until such time as the General Meeting has had an opportunity to examine the situation and take the relevant measures;
- (xii) To exercise the other powers conferred on it by this Agreement and to perform such functions as may be assigned to it by the General Meeting.

(d) Meetings. The Board of Directors shall meet at least three times a year, in April, August and December, and shall hold special meetings whenever it deems necessary.

Article 4

Administration

4.1 Technical and administrative structure

(a) The General Meeting and the Board of Directors shall determine and establish the technical and administrative management structure of the Indigenous Fund, in accordance with articles 3.2 (d) (vi) and 3.3 (c) (iv) and (x). This structure, hereinafter referred to as the Technical Secretariat, shall be made up of persons who are highly qualified in terms of professional training and expertise; this staff shall consist of no more than 10 persons - six professionals and four administrative staff. Additional staffing requirements for projects may be met by recruiting temporary staff.

(b) Should it deem necessary, the General Meeting may expand or alter the composition of the Technical Secretariat.

(c) The Technical Secretariat shall function under the direction of a Technical Secretary appointed in accordance with the provisions of paragraph (a) above.

4.2 Management contracts. The General Meeting may authorize the signing of management contracts with entities that have the resources and expertise to undertake the technical, financial and administrative management of the resources and activities of the Indigenous Fund.

Article 5

Cooperating entities

5.1 Cooperation with entities which are not members of the Indigenous Fund. The Indigenous Fund may sign special agreements, approved by the General Meeting, allowing non-member States, as well as public and private, local, national and international organizations, to contribute to the capital of the Fund, participate in its activities, or both.

Article 6

Operations and activities

6.1 Organization of operations. The Indigenous Fund shall organize its operations according to a system of classification by programme and project area, in order to facilitate the concentration of administrative and financial efforts and the programming by means of periodic financial statements that will permit the fulfilment of its specific objectives.

6.2 Recipients. The direct, exclusive recipients of programmes and projects supported by the Indigenous Fund shall be the indigenous peoples of

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Latin American and Caribbean States which are members of the Fund or have signed a special agreement with the Fund enabling their country's indigenous peoples to participate in its activities, in accordance with article 5.

6.3 Criteria for eligibility and priority. The General Meeting shall adopt specific criteria for determining the eligibility of applicants to and recipients of the Indigenous Fund in an interdependent manner, taking into account the diversity of its recipients, and for establishing priorities among programmes and projects.

6.4 Funding conditions.

(a) Taking into account the diverse and particular characteristics of the potential recipients of programmes and projects, the General Meeting shall establish flexible parameters to be used by the Board of Directors in determining funding modalities and establishing conditions for the execution of each programme and project, in consultation with the parties concerned.

(b) In accordance with the criteria mentioned, the Indigenous Fund shall grant non-reimbursable resources, credits, guarantees or other appropriate funding modalities, or combinations thereof.

Article 7

Evaluation and follow-up

7.1 Evaluation of the Indigenous Fund. The General Meeting shall periodically evaluate the overall functioning of the Indigenous Fund, according to whatever criteria and methods it deems appropriate.

7.2 Programme and project evaluation. The progress of programmes and projects shall be evaluated by the Board of Directors. Special consideration shall be given to requests to that end made by the recipients of such programmes and projects.

Article 8

Withdrawal of members

8.1 Right to withdraw. Any member State may withdraw from the Indigenous Fund by giving written notice to the Chairman of the Board of Directors, who shall notify the Secretariat of the United Nations accordingly. Withdrawal shall take effect one year from the date on which such notification is received.

8.2 Liquidation of accounts.

(a) Member States' contributions to the Indigenous Fund shall not be refunded in the event of their withdrawal.

(b) A member State which has withdrawn from the Indigenous Fund shall remain liable for any sums owing to the Fund and for any obligations entered into with it prior to the date of termination of its membership.

Article 9

Termination of operations

9.1 Termination of operations. The Indigenous Fund may terminate its operations by decision of the General Meeting, which shall appoint liquidators and decide on the settlement of debts and the proportional distribution of assets among its members.

Article 10

Legal personality

10.1 Legal status

(a) The Indigenous Fund shall have legal personality and full powers to:

- (i) Conclude contracts;
- (ii) Acquire and transfer movable and immovable property;
- (iii) Accept and grant loans and donations, offer guarantees, buy and sell securities, invest funds not committed for its operations and carry out the financial transactions necessary for the fulfilment of its purpose and functions;
- (iv) Bring legal or administrative proceedings and appear in court;
- (v) Take any other action required for the performance of its functions and the fulfilment of the objectives of this Agreement.

(b) The Fund shall exercise these powers in accordance with the legal requirements of the member State in whose territory it is conducting its operations and activities.

Article 11

Immunities, exemptions and privileges

11.1 Granting of immunities. Member States shall take, in accordance with their legal system, the measures required to confer on the Indigenous Fund the immunities, exemptions and privileges necessary for the fulfilment of its objectives and the performance of its functions.

Article 12

Amendments

12.1 Amendments to the Agreement. This Agreement may be amended only by unanimous agreement of the General Meeting, subject, where necessary, to ratification by the member States.

Article 13

General provisions

13.1 Headquarters of the Fund. The headquarters of the Indigenous Fund shall be at La Paz, Bolivia.

13.2 Depositaries. Each member State shall designate its central bank as depositary, so that the Indigenous Fund can maintain its disposable and other assets in the currency of that member State. If the member State does not have a central bank, it shall designate, in agreement with the Indigenous Fund, some other institution for that purpose.

Article 14

Final provisions

14.1 Signature and acceptance. This Agreement shall be deposited with the Secretariat of the United Nations, where it shall remain open for signature by representatives of Governments of States of the region and other States wishing to become members of the Indigenous Fund.

14.2 Entry into force. This Agreement shall enter into force when the instrument of ratification has been deposited, in accordance with paragraph 14.1 of this article, by at least three States of the region.

14.3 Denunciation. Any member State which has ratified this Agreement may denounce it by sending official notification to the Secretary-General of the United Nations. The denunciation shall take effect one year after the date of its registration.

14.4 Commencement of operations

(a) The Secretary-General of the United Nations shall convene the first meeting of the General Meeting of the Indigenous Fund as soon as this Agreement enters into force in accordance with paragraph 14.2.

(b) At its first meeting, the General Meeting shall take the necessary measures to appoint the Board of Directors, as provided in paragraph 3.3 (a) of article 3, and to determine the date on which the Indigenous Fund is to commence its operations.

Article 15

Transitional provisions

15.1 Interim Committee. Once this Agreement has been signed by five States of the region, and without this giving rise to obligations for States that have not ratified it, an Interim Committee shall be established with composition and functions similar to those described for the Board of Directors in paragraph 3.3 of article 3 of this Agreement.

15.2 Under the direction of the Interim Committee, a Technical Secretariat shall be established as indicated in paragraph 4.1 of article 4 of this Agreement.

15.3 The activities of the Interim Committee and the Technical Secretariat shall be funded by voluntary contributions from States that have signed this Agreement and by contributions from other States and entities, through such technical cooperation and other forms of assistance as States or other entities may arrange with international organizations.

DONE in the city of Madrid, Spain in one original dated 24 July 1992, the Spanish, Portuguese and English texts being equally authentic.

FOR ARGENTINA

(Signed) Guido José Mario DI TELLA
Minister for Foreign Affairs

FOR BOLIVIA

(Signed) Ronald MCLEAN ABAROA
Minister for Foreign Affairs

FOR BRAZIL

(Signed) Celso LAFER
Minister for Foreign Affairs

/...

FOR CHILE

(Signed) Enrique SILVA CIMMA
Minister for Foreign Affairs

FOR COLOMBIA

(Signed) Noemi SANIM
Minister for Foreign Affairs

FOR COSTA RICA

(Signed) Bernd NIEHAUS QUESADA
Minister for Foreign Affairs

FOR CUBA

(Signed) Ricardo ALARCON DE QUESADA
Minister for Foreign Affairs

FOR THE DOMINICAN REPUBLIC

(Signed) Juan Aristides TOVARES GUZMAN
Minister for Foreign Affairs

FOR ECUADOR

(Signed) Diego CORDOVEZ
Minister for Foreign Affairs

FOR EL SALVADOR

(Signed) José Manuel PACAS CASTRO
Minister for Foreign Affairs

FOR GUATEMALA

(Signed) Gonzalo MENENDEZ PARK
Minister for Foreign Affairs

FOR HONDURAS

(Signed) Mario CARIAS ZAPATA
Minister for Foreign Affairs

FOR MEXICO

(Signed) Fernando SOLANA
Secretary for Foreign Affairs

FOR NICARAGUA

(Signed) Ernesto José LEAL SANCHEZ
Minister for Foreign Affairs

FOR PANAMA

(Signed) Julio LINARES
Minister for Foreign Affairs

FOR PARAGUAY

(Signed) Alexis M. FRUTOS VAESKEU
Minister for Foreign Affairs

FOR PORTUGAL

(Signed) João de DEUS PINHEIRO
Minister for Foreign Affairs

FOR SPAIN

(Signed) Javier SOLANA MADARIAGA
Minister for Foreign Affairs

FOR URUGUAY

(Signed) Héctor GROS ESPIELL
Minister for Foreign Affairs

Notes

- a/ Resolution 217 A (III).
- b/ See resolution 2200 A (XXI), annex.



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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS
OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 30 November 1992 from the Chargé d'affaires a.i.
of Yugoslavia to the United Nations addressed to the
Secretary-General

I have the honour to transmit, enclosed herewith, the report of the Government of the Federal Republic of Yugoslavia which was submitted to and considered by the Human Rights Committee at its forty-sixth session, held in Geneva from 19 October to 6 November 1992.

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda item 97 (c).

(Signed) Dragomir DJOKIC
Chargé d'affaires a.i.

Annex

REPORT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

INTRODUCTION

1. The Government of the Federal Republic of Yugoslavia, fully aware of its obligations under the International Covenant on Civil and Political Rights a/ and, in particular, of those arising from the provisions of article 40, paragraph 1 (b), has the honour to respond by means of the present report to the request addressed to it by the Human Rights Committee and transmitted by the letter dated 7 October 1992 from the Secretary-General of the United Nations. However, before answering the specific questions asked in paragraph 1 (a) to (d) of the request by the Human Rights Committee, the Federal Government would like to make a number of general comments.

2. First of all, both the Federal Government and a large part of Yugoslav public opinion are fully aware of the shortcomings with regard to observance and promotion of human rights in the Yugoslav internal order. The reasons for this situation lie, firstly, in the fact that the country was governed for practically half a century by an authoritarian, not to say totalitarian, regime in which human rights, as in every other communist country, did not measure up to the internationally recognized standards. Although the Socialist Federal Republic of Yugoslavia ratified practically all the international instruments relating to the development and realization of human rights, and although the legislation itself reflected these international obligations quite faithfully, the application of the laws and the practice of the authorities were often vitiated by a bureaucracy characterized by the totalitarian spirit. As soon as it took office on 15 July 1992, the Federal Government set itself, as one of its primary goals, the task of reshaping the internal public order so as to convert a "party-ruled State" into a State subject to the rule of law. How seriously the problem of promoting human rights has been taken is indicated by the setting-up of a new Federal Ministry, the Ministry of Human Rights and Minorities, with the aim of remedying a situation that was truly unsatisfactory in certain respects.

3. To be fair, already in 1990 the former Government introduced certain legislative amendments, such as the elimination from the Federal Penal Code of the offence of disseminating enemy propaganda and other crimes of opinion. These amendments were followed by a law amnestying persons who had previously been tried for such offences and a law appreciably reducing the powers of the police in the area of investigation by expanding the competence of the Judiciary in the context of the law on penal procedure. In addition, there was a new law on the association of citizens paving the way for political party pluralism, and another on public information, guaranteeing freedom of the press and the media in general. The Constitution of the Federal Republic of Yugoslavia, promulgated on 27 April 1992, abolishes capital punishment for the offences provided for in the Federal Penal Code, which undoubtedly represents an important step on the road to protection of one of the fundamental human rights, the right to life.

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4. The Federal Government has carried on this work by drafting several bills relating to human rights in particular. The most important of these are, undoubtedly, the general amnesty bills concerning offences committed in connection with armed conflict, with the exception, of course, of serious violations of humanitarian law, in other words, war crimes and crimes against humanity. Work has also begun on draft legislation to govern the status of minorities. Similarly, completely updated legislation on penal procedure is in the course of preparation, providing maximum guarantees, in accordance with the Government's intentions, for the rights of the individual, both in the course of the investigation and throughout the procedure before the courts, including a fully guaranteed right of appeal. The primary purpose of this law would appear to be to place the police authorities under the strict supervision of the courts. Lastly, an electoral law guaranteeing fair, equitable and democratic elections at the federal level has recently been promulgated; this should permit the full exercise of the individual's political rights in this area.

5. Given the need for the present report to be brief and concise, it is obviously impossible to dwell at length on the details of these legislative amendments. The representative of the Federal Government would be happy to supply the relevant details if requested to do so by the members of the Committee. It should, however, be emphasized that the major problem involved in the realization and observance of human rights stems not so much from the legislation as a whole which, generally speaking, meets Yugoslavia's international obligations, as from the State apparatus whose duty it is to enforce the law. It is impossible to change overnight this apparatus, and the attitude of officials and even judges who, having been brought up under a communist regime, are adapting only with difficulty to what is for them a completely new situation. Even those who act in good faith, and their number is undoubtedly on the increase, are not always able, while applying the letter of the law, to grasp the spirit underlying it, and this of course means that the implementation of the law is often erroneous or deficient. If one adds the constitutional problem connected with competence, and by this we mean that under the terms of the Constitution the federal authorities enjoy only relatively limited room for manoeuvre for practical action, given that the administration of justice and the administrative function, including the police function, essentially fall within the competence of the two Republics constituting the Federation, the difficulties confronting the Federal Government in its efforts to ensure the effective protection of human rights become more comprehensible. These facts obviously cannot serve as an excuse for cases of human rights violations or, still less, serve to exonerate the Federal Republic of Yugoslavia from its international responsibility in this respect, but highlighting them would certainly help the members of the Committee to gain a better understanding of the actual situation in Yugoslavia. We wish to emphasize that the supreme organs of the Federation have announced and called for an amendment of the Constitution which would eliminate the problem of the delimitation of competence, broadening this competence for the benefit of the federal organs, particularly in the area of the protection of human rights.

6. A further adverse factor in regard to effective realization of human rights is the armed conflict that has devastated the former Yugoslavia, a conflict which, despite all efforts by the Federal Government, is still raging in Bosnia and Herzegovina, with day-to-day consequences that are sharply felt by our country and, unfortunately, will continue to be felt for a long time. The fact that Yugoslavia has split up in a very savage armed conflict has seriously harmed all the infrastructure of authority, at every level, including the forces of law and order, whose duty in every country consists in guaranteeing the safety of the man in the street. At the same time, all the social institutions have been affected, and this, along with the tragic collapse in the living standards, lies at the root of the resurgence of crime and general insecurity. Mr. Dobrica Cosic, President of the Federal Republic of Yugoslavia, described the country's situation quite frankly in a statement to the Federal Assembly on 16 October 1992. But the worst thing is the repercussions on the relations between the various ethnic groups and nationalities and between the national minorities and the majority people, the Serbs and the Montenegrans. As a result, therefore, of the fact that the armed conflict broke out first in Slovenia, then in Croatia, before the Federal Republic of Yugoslavia was established (on 27 April 1992), and later in Bosnia and Herzegovina, relations between the majority people and the national minorities (Muslims, Croats and others) have deteriorated - relations which, even shortly before, were relatively stable, indeed cordial. The conflict between the Albanians and Serbs, which had been brewing in Kosovo and Metohija since the beginning of the 1980s, has grown still worse. Yet another outcome of the conflict is the massive refugee influx into the territory of the Federal Republic of Yugoslavia of Serbs from Croatia and Bosnia and Herzegovina, and also other nationalities, more particularly Muslims. These refugees now number more than 500,000. Some of these people, fleeing from the conflict in the hope of saving their lives and those of their families, have arrived in the Federal Republic of Yugoslavia bringing with them their weapons, resolved to set up a new home, even if it means using force to achieve their aim, at the expense of people belonging to non-Serb nations (Croats and others), whom they regard as their "enemies" simply because they do not belong to the Serb nation. Despite the fact that the Federal Republic of Yugoslavia, as soon as it was founded, and above all after the federal army's withdrawal from Bosnia and Herzegovina around 20 May this year, proclaimed its firm intention to respect the territorial integrity of the newly created States on the territory of former Yugoslavia, an intention the Federal Government has scrupulously respected, all this has been compounded by yet another scourge, namely, the paramilitary groups.

7. At the beginning of the "Croat war", in the summer of 1991, various groups of volunteers emerged under the influence of ultra-nationalistic, not to say chauvinistic, party leaders, but also did so spontaneously, and they formed paramilitary units or militias which operated on their own account, beyond all official military control, both in Croatia and, at the present time, in Bosnia and Herzegovina. The same also happened in these two former Yugoslav republics, which are now internationally recognized States. Since its inception, the Federal Government, in close cooperation with the authorities of the republics of Serbia and Montenegro, has dismantled these

paramilitary groups, but unfortunately they have carried on in secret. At the present time, these people cross in secret from Serbia and Montenegro into Bosnia and Herzegovina, where they pillage and plunder, and often commit serious violations of humanitarian law. The new borders are difficult for the federal army and the border police to control, but the Federal Government has redoubled its efforts to put an end to this practice. Attempts have been made on a number of occasions, even on the territory of the Federal Republic of Yugoslavia, at "ethnic cleansing", but the authorities have reacted and taken firm steps to prevent such acts. The most extreme cases are mentioned later on in this report, as are the steps taken by the authorities against the people guilty of these misdeeds. Bearing in mind that, according to overall estimates by the authorities, scores of thousands of people illegally possess weapons, it is somewhat reassuring to find that incidents of this kind are not, for all that, as numerous as they might be. The Federal Government, taking firm action to recover these weapons, considers that this encouraging situation is due to its no less firm action against any attempted attack on persons who do not belong to the majority nation.

8. The Federal Government, in submitting its report to the Human Rights Committee, is inclined to believe that these introductory explanations will be of some help to the members of the Committee so that they can familiarize themselves - by an large - with the general situation and thus obtain a better grasp of the difficulties the Federal Government must overcome in its endeavours to achieve effective protection of human rights. Obviously, they can properly assess the measures taken to prevent and suppress violations, measures which are discussed in sections (a) to (d) of the present report.

9. It should be noted, to begin with, that no "ethnic cleansing policy" has ever been practised on the territory of the Federal Republic of Yugoslavia. As pointed out above, there have been attempts in this direction by some individuals or loosely organized groups, the purpose doubtless being to bring pressure to bear on people belonging to minority nations, Croats and Muslims in particular, and induce them to leave their homes.

10. This kind of pressure, exerted by people carrying weapons, threatening telephone calls and other clandestine actions, has frightened the non-Serb population and hence they have not had the courage to report it promptly to the appropriate authorities. This is, moreover, the main reason why the authorities have not reacted promptly and firmly. These acts (it is suspected that they were encouraged by certain ultra-nationalist political parties, and this is the subject of an inquiry) took place from May to September 1992 in some parts of Vojvodina, more particularly against the Croat population but also against Muslims in the region of Sanjak and in Montenegro. We shall discuss separately, as extreme examples, events in Vojvodina and in the area of Plevlja (Montenegro), and the steps taken to stop the situation from growing worse and to eradicate the consequences.

A. Vojvodina region

11. Such attempts at intimidation have taken place in Hrtkovci, Nikinci, Ruma, Ruski Kratur, Golubinci, Kukujevc, Novi Slankamen and Beska. They have been particularly frequent in Hrtkovci, where some 500 refugee families - Serbs fleeing from Croatia, including 350 ex-servicemen, most of them armed - were settled in early May. The effect, before the authorities reacted, was to drive some 200 families (600 people) out towards Croatia. The inquiry needs to answer the question whether there was any connivance between the refugees putting on the pressure and the local police authorities. The Ministry of the Interior of the Republic of Serbia is currently conducting an inquiry into 12 local officials in order to establish the facts. It should be pointed out that the local Serb inhabitants objected to this high-handedness and sided with their Croat fellow-citizens. Six incidents of direct physical attacks on non-Serbs were recorded in late June, and on 28 June tensions peaked after the killing of Mijat Stefanec. Thanks to joint action by the Federal Ministries of Justice and the Interior and the Ministries of Justice and the Interior of the Republic of Serbia, the situation has passed, peace and order have been restored, and the safety of all citizens, irrespective of nationality, and their property has been guaranteed. The following steps have been taken:

(a) Police forces and patrols have been reinforced in districts (villages) lacking police stations;

(b) Twenty incidents in which explosives were laid or hand-grenades used have been cleared up or investigated, with the result that 12 people have been arrested and legal proceedings begun against them;

(c) Eight persons have been detained for offences against the freedom and rights of person of another nationality, and legal proceedings against these eight are in progress;

(d) In a large sweep, 145 people have been charged with illegally carrying weapons, and large quantities of weapons and ammunition have been seized;

(e) The suspects in the killing of Mijat Stefanec have been detained and brought before the courts;

(f) People suspected of encouraging "ethnic cleansing" or of actually carrying out or instigating such human rights violations, namely, Ostoja Sibincic, Rade Cakmak, Milivoje Cakmak, Mirko Paunovic and Rade Miletic, have been detained and criminal proceedings against them are under way;

(g) On several occasions, senior officials from the Serbian ministries concerned, including the Minister of Justice, have visited the districts listed above, while the Federal Ministers of Justice and Human Rights and National Minorities have received delegations - combining Serbs and Croats - from the original inhabitants; as a result security has been restored and people are once again confident that the authorities will come to citizens'

aid and prevent future acts similar to those that previously occurred. It is quite certain that the official authorities of the Republic of Serbia never encouraged these illicit actions in any way, and there can be no question of any policy of "ethnic cleansing". Where local authorities have been guilty of omissions, which was certainly true at the beginning of these unfortunate events, it was more a question of negligence than of actual connivance with the miscreants. The inquiry conducted by the Ministry of the Interior of the Republic of Serbia will show what is what, and if fault is established, the culprits will suffer the consequences.

12. These steps have borne fruit, and efforts are being made to bring home and compensate the families who were forced to flee. The efficacy of these measures can be seen in the facts that in September, for example, there was not a single case of refugees being forcibly installed in houses belonging to persons of Croat nationality, while in July and August there were 34 such cases; in September, again, only four incidents of non-Croats being threatened with expulsion were reported, whereas in July and August there were in all 40 such incidents. Lastly, no incident of forced expatriation has been reported in the Vojvodina region since September.

B. Plevlja

13. The district of Plevlja (population 45,000) lies in that part of the Republic of Montenegro near the battlefields of Bosnia and Herzegovina. The population is mixed: Serbs, Montenegrans and Muslims. The war in neighbouring Bosnia has stirred national intolerance and animosity, and given rise to acts of terrorism. These generally take the form of bombs planted in shops and buildings. According to figures from the Montenegrin Ministry of the Interior, over 80 bomb explosions have been reported in the State during 1992 (including 30 in Plevlja, 25 in Bjelo Polje, and 18 in the capital, Podgorica). The situation has been worst in the Plevlja district, as the number of explosions shows. Besides bombs and fires, certain extremist national parties have engaged in activities - or, more precisely, extremist members of those parties have applied pressure, in the form of verbal threats and open demands - to force the Muslims to leave. According to figures from the Montenegrin Ministry of the Interior, several hundred Muslims have abandoned the commune of Plevlja (including the villages surrounding the town itself) during the year and gone to Turkey, Macedonia or Germany. It should also be remembered that, for example, around 100 Serbs and Montenegrans left the district of Rozaj, where Muslims are in the majority, over the same period. The National Assembly of the Republic of Montenegro has addressed this unsatisfactory situation several times since April this year, calling on the authorities to take forceful measures to ease tensions. Mr. Dobrica Cosic, the President of the Federal Republic of Yugoslavia, and Mr. Bulatovic, the President of the Republic of Montenegro, have visited Plevlja to use their political influence to ease the situation. To this end, the authorities have taken the following measures:

- (a) Thirteen incidents in which bombs were planted in buildings owned by

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Muslims have been investigated, the suspects have been arrested and an inquiry has been ordered without their knowledge by the competent court;

(b) Charges have been brought against a total of 21 people in Plevlja and Bjelo Polje for acts of terrorism against Muslims. Nine of the accused are also members of paramilitary organizations suspected of moving into Bosnia and Herzegovina from time to time, and the court will also consider these activities. All those investigated are of Serbian or Montenegrin nationality. The police forces in Plevlja have been strengthened, especially since late September, and this has made citizens safer and put an end to the threats, pressure and bombings directed against the Muslims.

14. Finally, since August, strenuous efforts have been made throughout the region of Montenegro to recover weapons illegally in the possession of the population. As a result, 600 weapons, together with ammunition and explosives, have been confiscated.

15. The Montenegrin Ministry of the Interior is conducting an investigation of 11 police officers in places where public order has been threatened, including Plevlja, to determine whether there has been any dereliction of duty regarding the protection of public order and peace. Early analyses point rather to negligence, but we must wait for the results of the official inquiry to know more.

16. According to the data available to the Federal Government, the pressure and threats against Muslims have ended, as have the mass departures. In this case, it is also quite clear that the authorities of the Republic of Montenegro have in no way instigated or supported the "ethnic cleansing", so that here again there can be no question of "official policy" in that direction.

17. Finally in this connection, it should be pointed out that all these attempts at "cleansing" have brought extremely negative reactions from the public in the Federal Republic of Yugoslavia, which has vociferously opposed all these violations of human rights, thereby helping the authorities of the Federal Republic of Yugoslavia, acting in full cooperation with the Serbian and Montenegrin authorities, to put an end to the attempts of individuals or illegal groups to pursue such a "policy" in Yugoslavia.

18. In reply to this question, it should first be pointed out that no arbitrary arrests, "political" killings or disappearances of individuals have occurred in the territory of the Federal Republic of Yugoslavia. From the way in which the question is put, it might be inferred that the members of the Committee had in mind situations such as those which occurred in the past under the dictatorial regimes in Latin America, where individuals or private organizations (political party militia, paramilitary groups, etc.), acting on their own initiative, but with the agreement or approval of the authorities, or even with their tacit encouragement, illegally arrested, killed or abducted people. Fortunately, in Yugoslavia no such practice has come to light. However, even isolated cases could not have remained undetected, given the unquestionable freedom of the media in the Federal Republic of Yugoslavia. In

other words, the newspapers and independent TV channels, which are always very well informed, would certainly have unearthed any such incidents, as demonstrated most clearly by the revelation of an isolated case of this type which occurred, fortunately without serious consequences, at the end of June 1992 in Belgrade during the mass demonstrations organized by the opposition group DEPOS. A lighting technician was seized one evening in front of his apartment by a group of individuals and taken blindfolded to a sort of "private prison", where he was ill-treated for a few hours and accused of having "helped the opposition" by turning the public lighting on and off. After his attackers had taken him back home and released him, he made a statement to the press, which reported the whole incident. The authorities are currently endeavouring to find those responsible, a task which is made difficult by the fact that the victim was kept blindfolded at all times and was therefore unable to identify them or recognize the place where he was temporarily held. As can be seen, then, such things do not happen and there have been no cases of this nature, apart from those referred to above.

19. Despite all the difficulties encountered by the authorities of the Federal Republic of Yugoslavia and the federal republics in their efforts to strengthen respect for human rights, as described in the introduction to this report, the Federal Republic of Yugoslavia is an organized country in which the governmental authorities alone are legally empowered to deprive an individual of his freedom. The paramilitary organizations, which have been disbanded in the Federal Republic of Yugoslavia, and thus no longer exist, could not have carried out such acts. Furthermore, there is no record of such incidents having taken place even when those organizations were still active.

20. There are, however, cases of arbitrary arrest, i.e. arrests without legal grounds or resulting from abuses of authority committed - as indeed can happen in any other country - by public officials, or even police officers. Appropriate legal measures are taken on the basis of complaints made by the competent body or by individuals who have been the victims of unlawful acts or whose rights have been impaired in any manner contrary to the law.

21. According to the figures of the Ministries of Justice of the Republics of Serbia and Montenegro, the number of complaints of unlawful arrest made since the beginning of 1992 against public officials (police officers) is 101, approximately 50 per cent of which have been found to have no legal foundation. Twenty per cent of the offenders have been subjected to disciplinary measures and have been punished, criminal proceedings against 32 individuals are in progress and 12 verdicts have been pronounced.

22. Under the Criminal Procedure Act, the victims of these violations are entitled to compensation for mental and physical injury suffered during their unlawful detention. Such compensation is regularly awarded by the courts.

23. A particularly serious case occurred in Bosnia and Herzegovina on 22 October 1992. It involved the abduction of 17 Muslim citizens of the Federal Republic of Yugoslavia, whose fate is at present unknown, although it is suspected that they may have been arbitrarily killed. The newly-created border between the Federal Republic of Yugoslavia and the Republic of Bosnia

and Herzegovina cuts across the road linking two localities in the Federal Republic of Yugoslavia, the small town of Priboj and the village of Sjeverin, which are inhabited entirely by Muslims. About 10 kilometres of this road, which is the regular bus route between Priboj and Sjeverin, there being no other road, are in the part of Bosnia and Herzegovina controlled by the local Serbian authorities. It was on this stretch of road that an unidentified, but most probably Serbian, paramilitary group stopped the bus, kidnapped 17 Muslims and took them away to an unknown destination. Following this incident, the President of the Federal Republic of Yugoslavia set up a three-member special commission, and the Federal Minister for Human Rights and National Minorities, Mr. Momcilo Grubac, travelled immediately to the area to do whatever was necessary to find the persons in question and enable them to return to their homes. The Bosnian-Serb authorities, led by Mr. Radovan Karadzic promised to cooperate fully and to open an inquiry into the disappearance of the individuals in question. Acting in full cooperation with the authorities of the Republic of Serbia, a strengthened law enforcement unit of the Ministry of the Interior of that Federal Republic, together with a unit of the federal army, were sent to the village of Sjeverin to protect the inhabitants against any further such attacks.

24. Negotiations were opened with the local Serbian authorities in Bosnia so as to enable the police of the Federal Republic of Yugoslavia to patrol the section of road in Bosnian territory and to protect Yugoslav citizens obliged to travel along it. In the village of Sjeverin, the police arrested two members of a paramilitary group who turned up there, unaware of the increased police presence, and who are strongly suspected of having been members of the group of kidnappers. In view of the deep concern caused by this incident to the authorities and the inhabitants of the Federal Republic of Yugoslavia, the Federal Government feels it has a duty - although strictly the matter does not fall within the purview of this report, given that the incident occurred in an area not controlled by the Federal authorities - to report it to the Human Rights Committee as an illustration of all the obstacles encountered by the authorities in their efforts to promote observance of the human rights of the citizens of the Federal Republic of Yugoslavia and to protect them, regardless of their nationality or membership of any group.

25. In the territory of the Federal Republic of Yugoslavia, there are no "prison camps", as referred to in the question in paragraph (c). Prisoners of the "Croat war" have thus been exchanged through the International Committee of the Red Cross (ICRC) and under agreements between the Governments of the Federal Republic of Yugoslavia and the Republic of Croatia, while some 30 persons who have not yet been exchanged and are deprived of their freedom for reasons relating to the armed conflict, without necessarily being nationals of the Federal Republic of Yugoslavia, are in ordinary prisons, which are, moreover, under ICRC supervision and regularly visited by its delegates. The offences referred to in the question are therefore not being committed. In view of some indications that such cases existed at the time when there were prison camps, prisoners of war and civilian persons deprived of their freedom in connection with the armed conflict, the Federal Government conducted an inquiry in order to determine the truth of these indications and take the measures required by law against those responsible. Since the

inquiry is still in progress, however, it is impossible to say anything specific in this regard. We shall have to await the results. The Federal Government is, moreover, firmly resolved to bring to justice all persons (commanders, guards, etc.) who ordered or committed acts of torture and other serious violations of the Geneva Conventions against protected persons or who engaged in any other wrongful acts against prisoners.

26. Although there are no particular places of detention taking the form of "prison or concentration camps" in the territory of the Federal Republic of Yugoslavia, the fact that sentences are served in penitentiaries, the establishments prescribed by law, and persons under investigation or otherwise deprived of their freedom are in police stations or in pre-trial detention does not mean that officials responsible for guarding prisoners or persons under investigation do not, in some cases, commit abuses of authority and violations of the human rights of the persons for whom they are responsible. Such violations, which are punishable by both the disciplinary regulations and the provisions of criminal law, are prosecuted and the persons responsible are punished. In 1989, for example, guards at the prisons in Vranje and Leskovac (Republic of Serbia) ill-treated Albanian prisoners. These guards, of whom there were 13, were tried and sentenced to terms of imprisonment in accordance with the law.

27. In 1992, 84 officials have been reported for ill-treatment or extortion of confessions in the performance of their duties. All the cases have been investigated and about 40 per cent have been dismissed as groundless, while, in 20 per cent, disciplinary penalties have been imposed and in the other 40 per cent criminal proceedings have been instituted and are, at present, at different stages. Twelve convictions have been handed down.

28. The implementation of the measures prescribed by law against persons who advocate national, racial or religious hatred that constitutes incitement to national or other discrimination, hostility or violence is a very serious and sensitive issue. Not only is incitement to hatred and violence punishable under article 20 of the International Covenant on Civil and Political Rights; it is also punishable by national criminal legislation. It may be said that the legislation is well drafted and meets the country's international obligations, but public opinion and the authorities are increasingly coming to the conclusion that this is not enough. In other words, there is a lack of willingness to apply the legislation strictly, for the reasons given below.

29. In the last few decades in Yugoslavia, the democratic segment of public opinion has rightly criticized the criminal provisions on so-called "crimes of opinion" under which anyone could be tried on charges of so-called "enemy propaganda", even on account of very mild criticism of the regime. This criminal offence has, as indicated above, been abolished and the laws on the mass media have become very liberal. Consequently, in a part of the press, people may actually write anything they want, either as an article or in a report, but not commenting on statements made by leaders of certain ultra-nationalist political parties, some of whom are members of Parliament and are thus protected by parliamentary immunity. Strictly speaking, many of these articles and statements should come under the provisions of article 20

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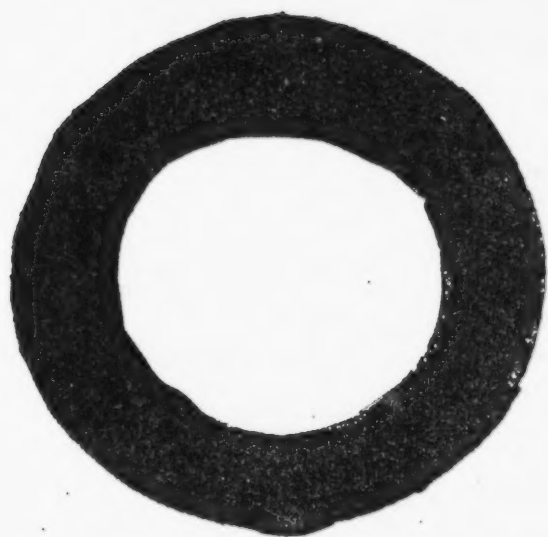
of the Covenant and the country's criminal legislation. In other cases, such statements and texts are often close to being offences.

30. In an atmosphere of intense nationalism, the public prosecutors' departments are, in the Federal Government's opinion, not being firm enough in instituting proceedings. It is also a well-known fact that it is often rather difficult, even for a good and conscientious jurist, to tell the difference between freedom of opinion and expression and incitement to the criminal offence of advocacy of hatred, violence, etc. Since there has not yet been any conviction for such offences in the Federal Republic of Yugoslavia, although there have been grounds, in several cases known to public opinion, for criminal proceedings on account of such statements, the Federal Government must admit that this is an omission which constitutes non-fulfilment of its obligations under article 20 of the Covenant. It should nevertheless be stressed that both the Federal and Republican authorities are seriously thinking about and working on the preparation of regulations to establish a better balance between freedom of expression and incitement to criminal offences, which are, moreover, in accordance with article 20 of the Covenant, already covered by criminal legislation. One of the practical steps to be taken for this purpose is to set up a monitoring body whose members would not belong to any political party and whose task would be to monitor national television, that of the Republic of Serbia, which, in a sense, is - and quite rightly so - the one most criticized for this type of statement. Other legislative and practical measures are being considered to put an end to this harmful practice.

31. Since so little time was available for the preparation of this report and it was difficult to obtain all the necessary data from the competent services and authorities so quickly, the Government of the Federal Republic of Yugoslavia does not consider the report either complete or definitive. It is determined to do everything it possibly can to ensure respect for human rights, not so much because this is Yugoslavia's duty under its international obligations as because the Government, and national public opinion, are aware that without full, comprehensive and firm guarantees of individual and civil rights it is not possible to establish a truly democratic and prosperous society. The Government will therefore continue to make every effort along these lines. In so doing, it is prepared, if the members of the Committee deem it necessary, to supplement this report. Accordingly, the Government has chosen experts who will be able to answer questions satisfactorily, in the hope that oral replies will supplement any parts of the report on which doubts may have been expressed or which may be regarded as an incomplete response to one of the questions asked.

Notes

a/ See resolution 2200 A (XXI), annex.





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Forty-seventh session
THIRD COMMITTEE
Agenda item 12

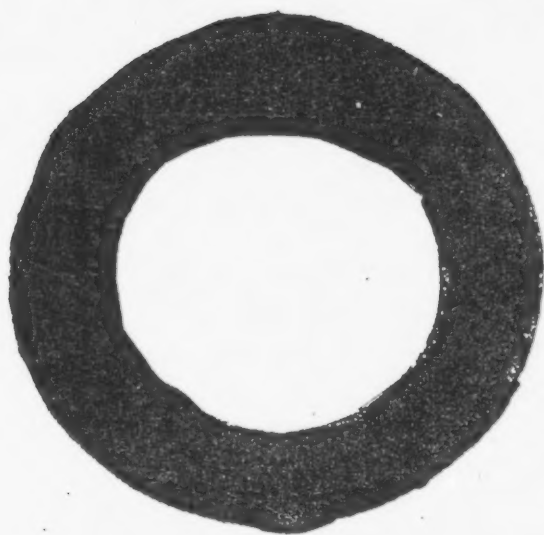
Report of the Economic and Social Council

Implementation of Economic and Social Council resolution 1992/39,
entitled "Review of the conditions necessary for the effective
functioning of the Non-governmental Organizations Unit of the
Department of Economic and Social Development"

Report of the Secretary-General

1. The Economic and Social Council, in its resolution 1992/39 of 30 July 1992, entitled "Review of the conditions necessary for the effective functioning of the Non-governmental Organizations Unit of the Department of Economic and Social Development", invited the Secretary-General to respond to the needs of the Non-governmental Organizations Unit and to adopt appropriate measures, to the extent possible within existing resources, during the biennium 1992-1993, to address the problems posed by the situation, in particular relating to the resources required for the Unit to carry out its functions effectively. The Council also invited the Secretary-General to submit to the General Assembly at its forty-seventh session a brief report on actions taken in 1992 and those planned for 1993 as short-term solutions to improve the situation of the Non-governmental Organizations Unit.
2. The Council, in the same resolution, requested the Secretary-General to consider, to the extent possible, within existing resources, increasing the human and financial resources of the Non-governmental Organizations Unit in order to enable it to fulfil its mandate under Economic and Social Council resolution 1296 (XLIV) within the framework of the proposed programme budget for the biennium 1994-1995. The Council also requested the Secretary-General to submit a report on the implementation of resolution 1992/39 to the Economic and Social Council at its substantive session of 1993, through the Committee on Non-governmental Organizations.

3. The Secretary-General has given careful consideration to the request to respond to the needs of the Unit and to adopt appropriate measures, to the extent possible within existing resources, during the biennium 1992-1993 to address the problems posed by the situation. The Secretary-General has decided to allocate, to the Non-governmental Organizations Unit, through internal redeployment of existing resources, one Professional post at the P-2 level and one General Service post, thus augmenting the resources of the Unit by 33 per cent. It is the Secretary-General's view that, with these additional resources, the Unit should be able to cope with its responsibilities more effectively for the foreseeable future.





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Agenda item 149

THE SITUATION OF HUMAN RIGHTS IN ESTONIA AND LATVIA

Letter dated 1 December 1992 from the Permanent Representative
of the Republic of Estonia to the United Nations addressed to
the Secretary-General

I have the honour to transmit to you a letter dated 27 November 1992 from Mr. Mart Laar, Prime Minister of the Republic of Estonia, regarding the human rights situation in Estonia.

I should be grateful if you would have the text of the Prime Minister's letter circulated as a document of the General Assembly under agenda item 149.

(Signed) Ernst JAAKSON
Ambassador

Annex

LETTER DATED 27 NOVEMBER 1992 FROM THE PRIME MINISTER OF THE
REPUBLIC OF ESTONIA ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to inform you that on 3 November 1992 President Lennart Meri established the Estonian Institute for Human Rights. The purpose of the Institute is to monitor human rights in Estonia and to ensure the representation of the rights of national minorities in our legislation, and also to disseminate factual information regarding the rights of national minorities and aliens in Estonia. Members of the governing board of the Human Rights Institute are to be invited from amongst internationally recognized experts in Estonia as well as abroad.

I understand that President Yeltsin of the Russian Federation has recently written to you with the request that you "take all measures within the United Nations, the Security Council and the General Assembly to induce the Baltic States to discharge fully and in good faith the commitments they have undertaken under bilateral and international agreements in the area of human rights and freedoms" (A/47/247). I further understand that, after intensive negotiations, at the 68th plenary meeting of the forty-seventh session, the General Assembly decided to allocate the following item to the Third Committee: "The situation of human rights in Estonia and Latvia (item 149)."

President Yeltsin also wrote to our President, and on 12 November 1992 President Meri responded to President Yeltsin's concerns as follows:

"In your letter you touched upon another issue that is also close to my heart, namely the guaranteeing of the human rights of the Russian-speaking population of Estonia. I can assure you that already on the first day of assuming office, I considered it self-evident to turn to the Russian-speaking population a hand outstretched in friendship and to promise to them that the President of Estonia will treat all people living in Estonia fairly. To ensure that words are not divorced from deeds, I have established the Institute for Human Rights. I consider it a matter of the honour of the Republic of Estonia that all norms of human rights are observed with respect to all people living in Estonia, regardless of their nationality, language, religion or beliefs. On its own initiative, the Government of Estonia has invited here an expert commission from the CSCE Bureau of Democratic Institutions and Human Rights to familiarize themselves with the state of human rights in Estonia. Other international commissions have been invited as well. Estonia and the Russian Federation last week at the CSCE CSO meeting in Prague both supported Sweden's initiative to send a team of observers for a longer period of time to investigate the state of affairs in north-east Estonia. We are ready to discuss human rights guarantees in Estonia in any and all forums, including the forty-seventh session of the United Nations General Assembly, as proposed by the Russian Federation."

Your Excellency, given the continued level of mutual concern felt by both of us on this serious issue, I should be grateful if you would use your good offices with the Under-Secretary-General for Human Rights and the Centre for Human Rights to dispatch a fact-finding mission to Estonia by United Nations human rights experts as expeditiously as possible so that this matter can be put to rest as soon as possible.

(Signed) Mart LAAR



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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS
OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 7 December 1992 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

Further to my letter dated 23 November 1992 (A/47/712-S/24844) containing the statement by the Government of the Federal Republic of Yugoslavia in connection with some parts of the second report on the situation of human rights in the territory of the former Yugoslavia (A/47/635-S/24766) prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, I have the honour to transmit, enclosed herewith, the supplement to the statement by the Government of the Federal Republic of Yugoslavia prepared by the Ministry of Foreign Affairs of the Republic of Serbia concerning some assessments and conclusions contained in the second report of the Special Rapporteur, Mr. Tadeusz Mazowiecki.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly under agenda item 97 (c).

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

Annex

SUPPLEMENT TO THE STATEMENT BY THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF YUGOSLAVIA CONCERNING SOME ASSESSMENTS AND
CONCLUSIONS CONTAINED IN THE REPORT OF THE SPECIAL RAPPORTEUR
MR. TADEUSZ MAZOWIECKI AFTER HIS SECOND VISIT TO THE FEDERAL
REPUBLIC OF YUGOSLAVIA FROM 12 TO 22 OCTOBER 1992

In reference to the recent reply made by the Government of the Federal Republic of Yugoslavia which contained facts refuting many of the assertions and allegations made in the report of the United Nations Special Rapporteur in connection with Vojvodina, Kosovo and Metohija, and the Raška region (the so-called Sandžak), the Ministry of Foreign Affairs of the Republic of Serbia has made inquiries and has established the exact facts regarding some of the matters mentioned in the report. It hereby wishes to call attention to the following points.

1. As regards the region of the Autonomous Province of Vojvodina, in the summer of this year, in localities inhabited by citizens of different nationalities (Hrtkovci, Kukujevcı, Beška, Novi Slankamen, Nikinci and a few others), there were recorded instances of pressure exerted on citizens of non-Serbian nationality.

For the purpose of preventing such incidents, which under no circumstance could be regarded as ethnic cleansing, the competent authorities of the Republic of Serbia have stepped up their security measures to protect the personal safety and property of all citizens and to prevent crimes and offences, especially those with ethnic overtones.

In the period between July and October this year, charges were brought against 144 individuals for acts of violence threatening the rights and freedoms of citizens belonging to different national groups, nationalities or ethnic groups, for threats to security, for the instigation of general threats, for the unauthorized purchase, carrying or sale of firearms or ammunition, for vandalism, etc. There were 107 arrests made of individuals who were brought before a court of inquiry, and 26 were detained.

The measures undertaken have improved the security situation in the area of the Autonomous Province of Vojvodina. Cases of squatting in houses owned by citizens of Croatian nationality have been eliminated; citizens who were forcibly evicted have been enabled to return to their homes, and ethnic tensions have been defused. All serious crimes and cases of violent behaviour have been investigated, and legal action has been taken against their perpetrators.

Refugees of Muslim nationality from Bosnia and Herzegovina receive the same treatment as refugees of Serbian nationality. There are some 33,000 refugees of Muslim nationality and 8,600 refugees of Croatian nationality who have received accommodation in the territory of the Republic.

2. In the area of the Raška region (the so-called Sandžak), undesirable migrational trends of citizens of both Serbian and Muslim nationality cause a particular security problem, but they cannot be linked to what is termed ethnic cleansing. In the first nine months of 1992, 2,140 persons moved away from the territories of the communes of Novi Pazar, Tutin, Sjenica, Priboj, Prijepolje and Nova Varoš, of whom 1,337 were of Muslim nationality. On the other hand, in this same period, 1,043 persons of Muslim nationality moved into this region. According to the records of the competent services, last year and in the course of this year, 5,581 citizens of Croatian nationality and 969 citizens of Hungarian nationality moved out of the area of Vojvodina last year and this year.

In view of this fact, it is clear that the assertions made in the report of the United Nations Special Rapporteur that about 90,000 Croats and Hungarians left Vojvodina after the outbreak of hostilities in Yugoslavia and that about 70,000 Muslims have fled from the Raška area are unfounded and unsubstantiated.

Therefore, there can be no question of any type of so-called ethnic cleansing, either in the territories of the Autonomous Province of Vojvodina and Sandžak or indeed in the rest of the Republic's territory.

In the region of Prijepolje and Priboj there is no record of any terrorist attacks in which the homes of Muslims were burned down and mosques destroyed, so that the allegation to this effect in the report is completely inaccurate. The Ministry of Internal Affairs recorded the case of arson of four derelict houses committed by unknown persons in the village of Sačica near Priboj, on 27 August 1992. These houses had been abandoned by their owners, citizens of Muslim nationality, 20 years ago. Investigations into the circumstances of the burning down of these houses and other relevant facts are presently under way.

3. On 12 and 13 October 1992, a mass meeting of members of the Albanian minority took place, organized by the so-called Committee for the Organization of Peaceful Protest Demonstrations in Kosovo and Metohija. Demonstrations were held first in Priština and Prizren and then in all the other large towns of the province.

Some 200,000 persons took part in the demonstrations, mainly schoolchildren, students and their parents, teachers, etc. No advance notification that the demonstrations would be held had been given to the competent authorities, even though such notification is obligatory under the provisions of the Public Assembly Statute.

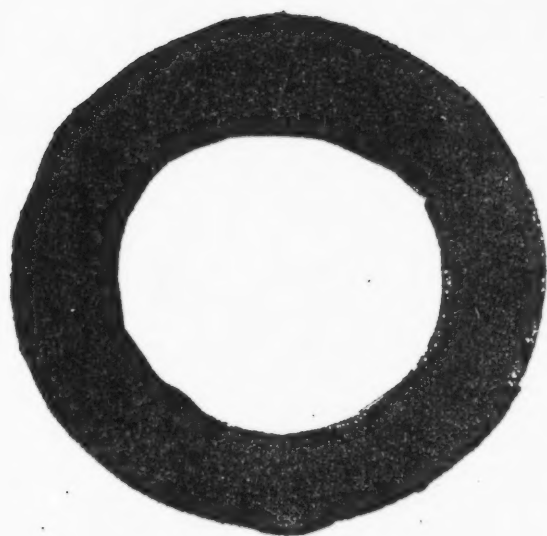
The aim of the demonstrators was to force entry and occupy the premises of schools and university buildings; they were particularly aggressive at the Commercial School in Peć on 12 October and the Philosophy Faculty on 13 October, where they threw stones at the police, wounding four. In both cases the members of the police force acted within their authority and used coercive means (physical force and regulation truncheons) to break up the crowd.

The strategy of the extremist Albanian separatists in Kosovo and Metohija is aimed at provoking wide-scale clashes with the police by carrying out armed assaults against law-enforcement officers and by inciting incidents.

The competent authorities of the Republic of Serbia will continue taking all the measures for which they are lawfully authorized in order to preserve law and order and ensure complete protection of the lives and property of all citizens throughout the entire territory of the Republic.

* * *

The Government of the Republic of Serbia believes that this brief presentation of the facts will convince the competent international institutions of the inaccuracy of a part of the allegations and assessments made in the report submitted by the United Nations Special Rapporteur. Without wishing to cast aspersions on the Special Rapporteur's good intentions, the Government of the Republic of Serbia trusts that future missions of this kind will avoid the pitfalls of superficial inquiries into the facts and the reaching of conclusions on the basis of unsubstantiated impressions.





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SOCIAL DEVELOPMENT: QUESTIONS RELATING TO THE WORLD
SOCIAL SITUATION AND TO YOUTH, AGEING, DISABLED
PERSONS AND THE FAMILY

Letter dated 23 November 1992 from the Director-General
of the International Labour Organisation addressed
to the Secretary-General

The proposal currently under consideration by the General Assembly at its forty-seventh session to convene in 1995 a world summit for social development has given rise to very keen interest within the International Labour Organisation (ILO).

At its recently held 254th meeting, the Governing Body of the International Labour Office conducted a very extensive debate on the question. During the debate, the representatives of the numerous Governments as well as the employers' and workers' groups that make up the Governing Body strongly emphasized their wish that ILO, which has an eminently social mandate, should play a central role in the preparation, holding and follow-up of the summit and instructed me to inform you in this regard as speedily as possible. The decision adopted by the Governing Body reads as follows:

"The Governing Body instructs the Director-General to invite the Secretary-General of the United Nations to bring to the attention of the General Assembly, at its forty-seventh session, that the tripartite constituents of the International Labour Organisation consider that this organization, given its specific mandate in the social field, should be called upon to play a central role in the preparation, the holding and the follow-up of the world summit for social development."

I should therefore be grateful if you would bring this decision by the Governing Body of the International Labour Office to the attention of the General Assembly at its present session.

Furthermore, although this is not explicitly stated in its formal decision, the Governing Body also instructed me to impress upon you the need to ensure that the world summit for social development is not held in June 1995. As you know, the International Labour Conference meets every year in June and, in the view of the Governing Body, it would be extremely detrimental to the central role that it wishes ILO to play at the summit, if the two events took place simultaneously. In this connection, I should point out to you that the members of the Governing Body regretted very deeply that the decision had been taken to hold the World Conference on Human Rights in Vienna in June 1993 - namely, at the same time as the session of the International Labour Conference - in spite of the very great interest on the part of ILO in the questions to be discussed at the World Conference, and they very firmly hoped that such overlapping would not recur during the world summit.

In addition to these formal decisions, I should like to mention other points that were raised during the discussion that just took place in the Governing Body.

The members of the Governing Body stressed the need to involve as closely as possible the employers' and workers' organizations in the preparation of the summit as well as the summit itself. The tripartite dialogue, which enables the social actors to participate with Governments in decision-making in the field of social policy, is, as you know, a basic principle of ILO, and the experience of our organization in its 73 years of existence has fully demonstrated that such a dialogue is essential to social progress. While ILO, for its part, will certainly involve its tripartite representatives in the preparation of its contribution to and its participation at the world summit, I should like to hope that the employers' and workers' organizations will be invited to contribute to the preparatory work for the summit as well as to the summit itself.

During these discussions in the Governing Body, concern was also expressed that the agenda of the world summit should focus on a very limited number of issues to enable the summit to achieve concrete results. In this regard, I am happy to note that Ambassador Somavia, in his report, has suggested that reduction of poverty, generation of productive employment and strengthening of social cohesion should be the priority themes of the summit. These themes appear to me to be thoroughly appropriate since they relate to the most acute social problems confronting all countries today.

I hope that through this letter I have conveyed all the importance that our organization attaches to the world summit and have expressed our desire to contribute effectively to its success. I take this opportunity to inform you that I have designated an experienced official of the International Labour Office, Mr. J. P. Martin, who is currently Coordinator of Interdepartmental

Projects and Activities, to coordinate the contribution by ILO to this important event. It would doubtless be advisable for Mr. Martin to contact at an early date Mr. Somavia or other officials to be designated by you in order to consider in detail the form and substance of our cooperation with the United Nations for the summit.

(Signed) Michel HANSENNE



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* Reissued for technical reasons.

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(Signed) Michel HANSENNE
